

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of October 5, 2010 Meeting

Present: Jina Karampetsos, Mark Enander, David DeAngelis, Barry Nickerson, Bernard McNamara, Lori Lyle, Anthony DeSisto (Town Solicitor)

Excused: John Bart

Minutes

Minutes from September meeting not available.

Applications:

First Facility Lincoln LLC, c/o Richard R. Ackerman, 191 Social Street, Woonsocket, RI – Application for Use Variance for the installation of signage at the intersection of Albion Road and George Washington Highway, Lincoln, RI.

AP 41, Lot 44 Zoned: BL 0.5

Represented by: Richard Ackerman, Esquire

The Town issued a letter of support installation of signage on Route 116 for one year with Zoning Board approval. The Board cannot grant with condition of one year approval of sign installation. Town Solicitor informed the Board that he spoke with Town Administrator

recommending the request be forwarded to the Town Council for their approval and that an easement be given to place the signage on Town property. Chair replied it was her understanding that if an easement were granted it would resolve part of the signage issue and that out of an abundance of caution it may be prudent to hear the Use Variance and place a condition with Town Council approval of an easement.

Witness

Herb George, Owner

He wrote to the State of Rhode Island in February 2010 about placing the signage on Route 116 and received an answer that the State could not grant permission. Submitted into the record as Exhibit #4 a Google map showing the location of his facility on Albion Road behind Lincoln Mall. He also reached out to other land owners for permission to install the signage but was denied.

Chair read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted application for use variance for the installation of signage at the intersection of Albion Road and George Washington Highway. According to section 260-37 C (4), a use variance is needed if a proposed sign is proposed to be located on a parcel of land other than the lot that the use is performed. The Planning Board recommends Denial of this Use Variance application. Currently, the property has one freestanding sign at the entrance of

the property. The application does not present any hardship for needing additional signage on another property nor does it satisfy any other standard of relief required for a use variance. The Planning Board feels that allowing this use variance will set a precedent for other commercial property owners. The Planning Board feels that this use variance will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

No opposition present.

Discussion:

Chair stated this applicant has demonstrated hardship and the signage is needed. Nothing of this nature has come before the Board in the past. Member Enander felt Albion Road is confusing and there is a definite need for signage for this facility.

Motion made by Member DeAngelis to approve the application with conditions that the Town Council grant an easement for the placement of the sign and further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. Witness testified that the facility is in a geographically difficult location and visitors cannot find the site and often drive by.**
- The hardship is not the result of any prior action of the applicant**

and does not result primarily from the desire of the applicant to realize greater financial gain.

- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. This is a commercial area and the proposed signage is esthetically pleasing
- The relief requested is the least relief necessary.
- The subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.

Motion seconded by Member Enander. Motion carried with a 4-1 vote with Member Lyle voting nay..

Preferred Towing Recovery & Auto Sales LLC c/o Christine Marie Labbe, 296 Angell Road, Lincoln, RI – Application for Use Variance for sale of repossessed vehicles at property located at 147/149 Reservoir Avenue, Lincoln, RI.

AP 06, Lot 347 Zoned: VCMU

Represented by: John Bevelaqua, Esquire

Member Lyle sat on this application with full privileges.

As requested by the Board at the last meeting, applicant submitted revised map (Exhibit #4) prepared by Steven Long depicting accurate measurements for the site.

Witness

Mark Labbe, Owner

He has operated Preferred Towing since 2003 which is an existing towing company with storage at the rear of the property. Applicant has the right to auction and sell vehicles under Section 39-12.1-9. They are not requesting permission to sell used vehicles just those vehicles on the premises as a result of towing and repossession. Main use of the premises is a towing business. Any accessory use would be enforced by zoning.

New map indicated one space per 300 sq. ft. as required by zoning. There is a total of 5,049 sq.ft. of building space with 27 parking spaces. Access to parking spaces labeled 18-27 on the map is from adjoining parcel of land. Spaces 13-17 are located around the existing building. Spaces 1-7 are indicated with curbstone. Spaces 18-27 do not have curbing but cannot be accessed through the property.

Attorney for applicant addressed the Board stating there were originally two applications but the Building Inspector told him the Special Use Permit was not necessary. The business has grown and the main use is now towing of vehicles. The Board can grant the accessory use but the primary use is the main guide to the accessory use. There will be no signage changes and parking issues have been met. The prior use of a scooter store will be turned into an office for applicant.

Chair stated she would be more comfortable with bumper barriers being installed to avoid cutting through Antonio's restaurant which is adjacent to the site. Applicant replied he would be willing to install them. Member Lyle stated she was concerned about congestion in the area and applicant replied there have not been any incidents in the past.

Chair read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted application for use variance for the sale of repossessed vehicles at property located at 147/149 Reservoir Avenue. The Planning Board recommends Denial of this use variance application. The existing property contains several existing retail businesses and their associated parking spaces per zoning. All of these businesses utilize one access point to and from Reservoir Avenue. The Planning Board has serious concerns about safe internal vehicular movement due to the limited size and layout of the property. The Board also has concerns about the applicant's ability to continue to meet our parking requirements. The original site plan provided in the application was not to scale. The Zoning Board asked the applicant to supply a scaled site plan. However, as of the date of the Planning Board meeting, no new information or site plan was submitted for review by the Town. The application does not present any hardship or reasoning as to the need for neither a use variance nor does it satisfy any other standard of relief required. The Planning

Board feels that this use variance will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

No opposition present.

Motion made by Chair to grant the Special Use Permit with conditions that applicant deliver to the Town on a yearly basis its dealer report filed with the Department of Motor Vehicles indicating the number of vehicles sold on site and bumper barriers be installed at the site between 18 and 27 parking spaces; 8 and 9 be eliminated; uses depicted on plan shall not change unless revisited by the Board.. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. Applicant has demonstrated that ample parking is available.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. Sites numbered 8 & 9 on the new map will be eliminated on the Reservoir side.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. Existing use is not being changed.**
- The relief requested is the least relief necessary.**

- **The subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.**

Motion seconded by Member Enander. Motion carried with a 5-0 vote.

Motion made by Chair to accept withdrawal of the Use Variance without prejudice. Motion seconded by Member Lyle. Motion carried with a 5-0 vote.

Rachel Morin Estate, 1793 Old Louisquisset Pike, Lincoln, RI – Application for Dimensional Variance for front and rear yard relief for a proposed subdivision.

AP 25, Lot 53 Zoned: RS-20

Represented by: Richard Dursin, Engineer on behalf of applicant.

Chair read into the record standards that need to be met for a Dimensional Variance.

There is an existing garage on the site which applicant wants added

to lot 32. The property is in the son's name. Applicant needs dimensional relief for the existing house/garage built in 1952; existing garage on lot; and rear setback. All are pre-existing conditions since 1952 when the house was originally built. Front setback as existing garage needs to be 30 feet and is presently at 29.11 feet from northwest corner and 29.37 feet from northeast corner. New property lines do not exist yet. Garage also needs 7.31 feet of rear relief. Applicant is only changing existing lot line. Neighbor wants the lot lines moved so he can acquire the existing garage.

Chair read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variances for the front and rear yard is to clear up the pre-existing nonconformance of this parcel of land. This record lot was platted before present day zoning regulations. The applicant is proposing to subdivide their property via an administrative subdivision to his neighbor. The pre-existing nonconformance of this parcel of land requires the applicant to seek zoning relief. If zoning relief was not needed, the subdivision could have simply been handled in-house by the administrative officer to the Planning Board. The Planning Board recommends Approval of this application. The Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Member Enander to grant 21.4 foot front yard relief for existing house/garage on Lot 53; .89 feet front yard relief and 7.31 feet rear yard relief. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member DeAngelis. Motion carried with a 5-0 vote.

Motion made by Member Nickerson to adjourn the meeting. Motion seconded by Member McNamara. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Zoning Secretary